

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1395 Fees/Financial Technology Sandbox Applications

**SPONSOR(S):** Sirois

**TIED BILLS:** HB 1391 **IDEN./SIM. BILLS:** SB 1874

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Hinshelwood	Cooper
2) Government Operations & Technology Appropriations Subcommittee			
3) State Affairs Committee			

### SUMMARY ANALYSIS

House Bill 1391 (2020), which this bill is linked to, creates the Financial Technology Sandbox within the Office of Financial Regulation. The Financial Technology Sandbox is intended to allow financial technology innovators to test innovative financial products or services in a supervised, flexible regulatory sandbox, using waivers of specified general law and corresponding rule requirements under defined conditions.

The bill requires payment of an application fee as provided in the license provision being waived for purposes of the Financial Technology Sandbox. The bill also requires that specified individuals who are involved with the innovative financial product or service submit live-scan fingerprints in order for the Florida Department of Law Enforcement to conduct a background check. The costs of fingerprint processing, including the cost of retaining the fingerprints, will be borne by the person subject to the background check.

This bill has no fiscal impact on state government or local governments and has an indeterminate negative fiscal impact on the private sector.

This bill will take effect on the same date that HB 1391 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

**This bill authorizes a new state fee, requiring a two-thirds vote of the membership of the House. See Section III.A.2. of the analysis.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

The Florida Constitution provides that no state tax or fee may be imposed, authorized, or raised by the Legislature except through legislation approved by two-thirds of the membership of each house of the Legislature.<sup>1</sup> For purposes of this requirement, a “fee” is any charge or payment required by law, including any fee or charge for services and fees or costs for licenses and to “raise” a fee or tax means to:<sup>2</sup>

- Increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis;
- Increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or
- Decrease or eliminate a state tax or fee exemption or credit.

A bill that imposes, authorizes, or raises any state fee or tax may only contain the fee or tax provision(s) and may not contain any other subject.<sup>3</sup>

The constitutional provision does not authorize any state tax or fee to be imposed if it is otherwise prohibited by the constitution and does not apply to any tax or fee authorized or imposed by a county, municipality, school board, or special district.<sup>4</sup>

House Bill 1391 (2020), which this bill is linked to, creates the Financial Technology Sandbox within the Office of Financial Regulation. The Financial Technology Sandbox is intended to allow financial technology innovators to test innovative financial products or services in a supervised, flexible regulatory sandbox, using waivers of specified general law and corresponding rule requirements under defined conditions.

##### Effect of Proposed Changes

The bill requires payment of an application fee as provided in the license provision being waived for purposes of the Financial Technology Sandbox. The bill also requires that specified individuals who are involved with the innovative financial product or service submit live-scan fingerprints in order for the Florida Department of Law Enforcement to conduct a background check. The costs of fingerprint processing, including the cost of retaining the fingerprints, will be borne by the person subject to the background check.

#### B. SECTION DIRECTORY:

**Section 1:** Amends s. 559.952, F.S., as created in HB 1391, relating to Financial Technology Sandbox Act.

**Section 2:** Provides that the bill will take effect on the same date that HB 1391 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

<sup>1</sup> Fla. Const. art. VII, s. 19(a)-(b). The amendment appeared on the 2018 ballot as Amendment 5.

<sup>2</sup> Fla. Const. art. VII, s. 19(d).

<sup>3</sup> Fla. Const. art. VII, s. 19(e).

<sup>4</sup> Fla. Const. art. VII s. 19(c).

1. Revenues:

The bill will have no impact on application fees received by the state because the bill requires an application fee in the amount that a person would otherwise pay in the course of applying for a license under the provision being waived for purposes of the Financial Technology Sandbox.

2. Expenditures:

The bill will have no impact on the state for fingerprints and background checks associated with the Financial Technology Sandbox because the costs of fingerprint processing, including the cost of retaining the fingerprints, will be borne by the person subject to the background check.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will have no impact on application fees paid by the private sector because the bill requires an application fee in the amount that a person would otherwise pay in the course of applying for a license under the provision being waived for purposes of the Financial Technology Sandbox.

The bill will increase costs on the private sector to the extent that the Financial Technology Sandbox requires fingerprints and background checks for individuals who otherwise would not be subject to such under the provision being waived for purposes of the Financial Technology Sandbox.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

Article VII, s. 19 of the Florida Constitution requires the imposition, authorization, or raising of a state tax or fee be contained in a separate bill that contains no other subject and be approved by two-thirds of the membership of each house of the Legislature. As such, the bill appears to implicate Art. VII, s. 19 of the Florida Constitution because the bill requires that the costs of fingerprinting be borne by the person subject to the background check.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill needs to be amended to conform to the proposed committee substitute for HB 1391.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**